

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA :
:
- v. - : INFORMATION
:
DUNHAM SMILEY, : 07 Cr. _____
a/k/a "Mike Vegas," :
a/k/a "Mike," :
a/k/a "Don Williams," :
a/k/a "Randall Townsend," :
:
Defendant. :
:
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07 Cr. 001

MANUALLY FILED

FILED: JUL 05 2007

COUNT ONE**(Conspiracy to Commit Copyright Infringement and
Traffic in Counterfeit Labels)**

The United States Attorney charges:

1. From in or about 1991 up to and including in or about June 2004, in the Southern District of New York and elsewhere, DUNHAM SMILEY, a/k/a "Mike Vegas," a/k/a "Mike," a/k/a "Don Williams," a/k/a "Randall Townsend," the defendant, and others known and unknown, unlawfully, willfully, and knowingly did combine, conspire, confederate, and agree together and with each other to commit an offense against the United States, in violation of Title 18, United States Code, Section 371.

2. It was a part and an object of the conspiracy that DUNHAM SMILEY, a/k/a "Mike Vegas," a/k/a "Mike," a/k/a "Don Williams," a/k/a "Randall Townsend," the defendant, and others known and unknown, unlawfully, willfully, and knowingly would and did infringe copyrights for purposes of commercial advantage and

private financial gain by the reproduction and distribution, including by electronic means, during a 180-day period, of ten and more copies and phonorecords, of one and more copyrighted works, which would and did have a total retail value of more than \$2,500, in violation of Title 17, United States Code, Section 506(a)(1)(A), and Title 18, United States Code, Section 2319(b)(1).

3. It was a further part and object of the conspiracy that DUNHAM SMILEY, a/k/a "Mike Vegas," a/k/a "Mike," a/k/a "Don Williams," a/k/a "Randall Townsend," the defendant, and others known and unknown, in a circumstance in which (i) the mail and a facility of interstate and foreign commerce would be and were used and intended to be used in the commission of the offense, and (ii) the counterfeit label would be and was affixed to, would and did enclose, and would be and was designed to be affixed to and enclose, a copy of a copyrighted motion picture and other audiovisual work, unlawfully, willfully, and knowingly, would and did traffic in a counterfeit label affixed and designed to be affixed to a copy of a motion picture and other audiovisual work, in violation of Title 18, United States Code, Section 2318(a).

Overt Acts

4. In furtherance of the conspiracy and to effect the illegal objects thereof, the following overt acts, among others, were committed in the Southern District of New York and elsewhere:

a. At various times from in or about 1991 up to and including in or about June 2004, SMILEY attended motion picture screenings at various public theaters located in, among other places, Manhattan, New York, and used a portable video camera to film and create unauthorized copies of hundreds of copyrighted motion pictures.

b. At various times from in or about 1991 through and including in or about June 2004, SMILEY sold in excess of one million videotapes and DVDs containing unauthorized copies of copyrighted motion pictures.

c. At various times from in or about 1991 up to and including in or about June 2004, SMILEY purchased and sold at least five million counterfeit labels designed to be affixed to unauthorized copies of copyrighted motion pictures.

(Title 18, United States Code, Section 371.)

COUNT TWO

(Copyright Infringement)

The United States Attorney further charges:

5. From in or about 1991 up to and including in or about June 2004, DUNHAM SMILEY, a/k/a "Mike Vegas," a/k/a "Mike,"

a/k/a "Don Williams," a/k/a "Randall Townsend," the defendant, unlawfully, willfully, and knowingly did infringe copyrights for purposes of commercial advantage and private financial gain by the reproduction and distribution, including by electronic means, during a 180-day period, of ten and more copies and phonorecords, of one and more copyrighted works, which had a total retail value of more than \$2,500, to wit, SMILEY attended motion picture screenings at various public theaters and used a portable video camera to film and create unauthorized copies of hundreds of copyrighted motion pictures and sold in excess of one million videotapes and DVDs containing unauthorized copies of copyrighted motion pictures.

(Title 17, United States Code, Section 506(a)(1)(A) and Title 18, United States Code, Sections 2319(b)(1) and 2.)

COUNT THREE

(Trafficking in Counterfeit Labels)

The United States Attorney further charges:

6. From in or about 1997 up to and including in or about June 2004, in the Southern District of New York and elsewhere, DUNHAM SMILEY, a/k/a "Mike Vegas," a/k/a "Mike," a/k/a "Don Williams," a/k/a "Randall Townsend," the defendant, in a circumstance in which (i) the mail and a facility of interstate and foreign commerce was used and intended to be used in the commission of the offense, and (ii) the counterfeit label was affixed to, enclosed, and was designed to be affixed to and

enclose, a copy of a copyrighted motion picture and other audiovisual work, unlawfully, willfully, and knowingly, did traffic in a counterfeit label affixed and designed to be affixed to a copy of a motion picture and other audiovisual work, to wit, SMILEY purchased and sold at least five million counterfeit labels designed to be affixed to unauthorized copies of copyrighted motion pictures.

(Title 18, United States Code, Sections 2318(a) and 2.)

COUNT FOUR

(Conspiracy to Make False Statement to Bank)

The United States Attorney further charges:

7. In or about 2005, in the Southern District of New York and elsewhere, DUNHAM SMILEY, a/k/a "Mike Vegas," a/k/a "Mike," a/k/a "Don Williams," a/k/a "Randall Townsend," the defendant, and others known and unknown, unlawfully, willfully, and knowingly did combine, conspire, confederate, and agree together and with each other to commit an offense against the United States, in violation of Title 18, United States Code, Section 371.

8. It was a part and an object of the conspiracy that DUNHAM SMILEY, a/k/a "Mike Vegas," a/k/a "Mike," a/k/a "Don Williams," a/k/a "Randall Townsend," the defendant, and others known and unknown, unlawfully, willfully, and knowingly would and did make a false statement and report for the purpose of influencing the action of an institution the accounts of which

were insured by the Federal Deposit Insurance Corporation upon an application, advance, discount, purchase, purchase agreement, repurchase agreement, commitment, and loan, and a change or extension of one of the same, by renewal, deferment of action, and otherwise, and the acceptance, release, and substitution of security therefor, in violation of Title 18, United States Code, Section 1014.

Overt Act

9. In furtherance of the conspiracy and to effect the illegal object thereof, the following overt act, among others, was committed:

a. In or about 2005, SMILEY caused a co-conspirator not named as a defendant herein ("CC-1") to represent falsely on a mortgage application that CC-1 intended to reside at the property for which the mortgage was sought.

(Title 18, United States Code, Section 371.)

COUNT FIVE

(Conspiracy to Commit Access Device Fraud)

10. In or about 2002, in the Southern District of New York and elsewhere, DUNHAM SMILEY, a/k/a "Mike Vegas," a/k/a "Mike," a/k/a "Don Williams," a/k/a "Randall Townsend," the defendant, and others known and unknown, unlawfully, willfully, and knowingly, did combine, conspire, confederate, and agree together and with each other to commit access device fraud, in violation of Title 18, United States Code, 1029(b) (2).

11. It was a part and an object of the conspiracy that DUNHAM SMILEY, a/k/a "Mike Vegas," a/k/a "Mike," a/k/a "Don Williams," a/k/a "Randall Townsend," the defendant, and others known and unknown, in an offense affecting interstate and foreign commerce, unlawfully, willfully, knowingly, and with intent to defraud would and did traffic in and use one and more unauthorized access devices during a one-year period, and by such conduct would and did obtain items of value aggregating \$1,000 and more during such one-year period, in violation of Title 18, United States Code, Section 1029(a) (2).

Overt Act

12. In furtherance of the conspiracy and to effect the illegal object thereof, the following overt act, among others, was committed in the Southern District of New York and elsewhere:

a. In or about 2002, SMILEY requested and agreed to purchase electronic equipment from co-conspirators not named as defendants herein who SMILEY knew would then obtain the equipment through the use of unauthorized credit cards.

(Title 18, United States Code, Section 1029(b) (2).)

Michael Garcia

MICHAEL J. GARCIA
United States Attorney

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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA

- v. -

DUNHAM SMILEY,

Defendant.

INFORMATION

(Title 18, United States Code,
Sections 371, 1029(b) (2), 2318(a),
2319(b) (1), and 2 and Title 17, United
States Code, 506(a)(1)(A).)

MICHAEL J. GARCIA
United States Attorney
